

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

John W. Franko	:	
-vs-	:	
Northern Illinois Gas Company	:	11-0415
d/b/a Nicor Gas Company	:	
	:	
Complaint as to billing/charges	:	
in Addison, Illinois	:	

PROPOSED ORDER

By the Commission:

I. Procedural History

On May 11, 2011, John W. Franko ("Franko" or "Complainant") filed a complaint against Northern Illinois Gas Company d/b/a Nicor Gas Company ("Nicor", "Respondent" or the "Company") with the Illinois Commerce Commission ("Commission") alleging that he was improperly billed for an account at his property located at 5 North Michigan, Addison, Illinois.

Pursuant to notice given in accordance with the law and the rules of the Commission, this matter came on for status hearings on June 9, 2011, June 30, 2011 and July 28, 2011 before a duly authorized Administrative Law Judge ("ALJ") of the Commission at its offices in Chicago, Illinois. Complainant appeared pro se and Respondent was represented by counsel. An evidentiary hearing was held on August 9, 2011. Complainant testified on his own behalf. Carlton Coleman, a Nicor customer relations associate, testified on behalf of the Company. At the conclusion of the hearing, the ALJ marked the record "Heard and Taken." On July 29, 2011, Respondent filed its closing brief. Complainant failed to file such a brief.

II. Complainant's Position

Mr. Franko explained that the Company denied him service because of bills owed by two tenants in the amount of \$2,500. The Company later reduced the bill to \$1,259 due to a billing error. He testified that he has owned the property at 5 North Michigan for about twenty years but that he has never resided there until recently. He has also never had gas service while he has resided there. He rented the property until moving there himself in December 10, 2010. Prior to moving to 5 North Michigan, he lived at 640 Hampton Court in Chicago from 1984 through 1990. From 1990 through 1993, he lived at 1217 Vandig in Boulder, Colorado. Finally, from 1993 through the end of 2010, he lived at 1001 West Madison in Chicago. Mr. Franko's tenants before he moved to 5 North Michigan had been Mr. John Franklin and Ms. Meentra Manprasert.

Mr. Franklin lived at the residence from 1990 or 1991 until January of 2009. Mr. Franko did not have a lease for Mr. Franklin but did have Ms. Manprasert's signed lease which was for the term of June 1, 2009 through May 31, 2010. Ms. Mansprasert did, however, moved from 5 North Michigan shortly after the term of the lease began.

On cross examination, Mr. Franko testified that he did not know Mr. Franklin prior to 1991 and that he did not remember how Mr. Franklin came to rent the property. He stated that Mr. Franklin probably answered an ad or responded to the "For Rent" sign in the window of the property. He described Mr. Franklin as weighing about 250 to 300 pounds and being about six foot tall. He did not know what Mr. Franklin did for a living but said that it was written on the lease. He told Mr. Franklin that he was responsible for paying the utility bills and believes that the Nicor Gas account at 5 North Michigan was in Mr. Franklin's name while he resided there, although he does not know this for certain.

In regards to the Company's allegations that Mr. Franko is, in fact, Mr. Franklin, Mr. Franko stated that he has never gone by another name or alias, nor has he ever used a date of birth other than his own. He did testify, however, that about 25 years ago, his mother got remarried and that he was adopted. As a result, his name was subsequently changed from Rodifier to Franko. Mr. Franko also mentioned that he has four brothers and two sisters and that his brothers, Raymond and Brian, have used aliases. He believes that Raymond has, in fact, used his name as an alias. Mr. Franko claimed that he has never pled guilty to a crime and that Raymond has never lived at 5 North Michigan.

When presented with the Company's exhibits that included various court documents and attachments filed during the time in which Mr. Franklin rented the residence at 5 North Michigan and that specifically named Mr. Franko and the residence in question as well as several aliases used by him which included John Franklin and John Rodifier, Mr. Franko had several explanations. In some instances, he claimed that his brother Raymond had used his name and address and noted the difference in their dates of birth and the discrepancy in the exhibits. In other instances, he argued that he does use the 5 North Michigan address on certain documents, although not living there. In still another instance, he alleged that perhaps Mr. Franklin had filed a lawsuit which named Mr. Franko as the complainant and read throughout "John Wesley Franko, Jr. a/k/a John Franklin" and bore the 5 North Michigan address on supporting documents. In yet another instance, a statement of conviction from the Cook County Circuit Court dated October 23, 2003, he stated that a Mr. Mike Babulo was responsible for using his name and address and that he had only upon reading the exhibit discovered the fraud perpetrated against him by this individual.

III. Respondent's Position

Carlton Coleman, a customer relations associate, testified that he has worked at Nicor for over five and a half years. He currently works in the Customer Relations Department where he receives inquiries and complaints primarily from the Commission. He investigates billing history, credit matters and field inquiries and then contacts the Commission and the customer to try to resolve the complaint. He has been in this

position for two years. Prior to this position, he was a supervisor in the Customer Care Department where he handled billing and credit issues.

Mr. Coleman testified that initially John Franklin was responsible for paying the gas bill at the 5 North Michigan address. That changed when in 2010, Mr. Franko attempted to initiate service in his own name. Mr. Coleman stated that Ms. Amy Infanger, his colleague, upon learning that Mr. Franko did not have a Nicor account associated with the property and that there was a previous balance from Mr. Franklin, asked Mr. Franko to produce a lease or other documentation that Mr. Franklin resided at the address. Mr. Franko failed to produce such evidence. Mr. Coleman asserted that in such an instance the property owner is responsible for the bill. On January 3, 2011, Mr. Franko again contacted Nicor before initiating a complaint with the Commission.

Mr. Coleman noted that as a result of Mr. Franko filing for bankruptcy, Nicor's Bankruptcy Department removed \$1,050.89 from Mr. Franko's bill which was the amount due and owing up until 2008. Mr. Franko currently owes \$1,279.54.

Mr. Coleman testified that Mr. Franklin initiated service in 1997. On August 15, 2008, Nicor disconnected the service for nonpayment. Two months later, Mr. Franklin's account was closed leaving a balance of \$1,108.88. In February of 2009, during a routine check of the meter, readers discovered that the meter was on and that service had been self-restored. On February 16, 2009, Mr. Franklin was billed for gas for usage from August of 2008 through February of 2009. On April 9, 2009, Nicor again discovered that service had been self restored and billed Mr. Franklin for unauthorized usage from February through April of 2009.

Mr. Coleman explained that in June of 2009 Ms. Manprasert contacted Nicor to have service started in her name. He stated that because of the balance due at the property and the two self restores, Nicor considered this account troubled. As a result, the Company has customers provide information to verify who they are such as a social security card, birth certificate, driver's license, etc. Ms. Manprasert provided this information and in July of 2009, her service was approved and started. Two weeks later, however, she cancelled her service. Her service was not shut off immediately though because it was the summer and usage is minimal. Ms. Manprasert's name was removed from the account, however, and the gas was eventually shut off in October.

Mr. Coleman stated that when there is no customer of record, Nicor sends occupant letters because the gas is on. The first occupant letter was sent to 5 North Michigan in October 2009 and then a second letter was mailed in December. Prior to 2010, service was not immediately shut off at the 5 North Michigan property.

Mr. Coleman also noted that in April of 2010, a Mr. Lester Kingston contacted Nicor about service at the Michigan address. His request was denied immediately because he could not produce the necessary documentation. Mr. Coleman noted that the meter was shut off at the property in June of 2010 for the second time.

Mr. Coleman testified that Mr. Franko's meter was turned off, but never removed. A meter is not always removed when there is a self restore. Mr. Coleman became

aware that the meter had not been removed from the property at the initial Commission status hearing in this docket on June 9, 2011.

IV. Commission Analysis and Conclusions

We find that the Complainant failed to meet his burden of proof. This complaint revolves around alleged improper billing in the amount of \$1,279.54. Mr. Franko maintains that a Mr. Franklin resided at his 5 North Michigan property from 1990 or 1991 until January of 2009 and that Nicor is holding him responsible for Mr. Franklin's unpaid account. However, Mr. Franko has failed to provide any evidence that a Mr. Franklin ever rented his property. The company, on the other hand, has produced numerous documents naming Mr. Franko as the resident of the 5 North Michigan property at the time that Mr. Franklin allegedly resided there. Some of these documents also bear Mr. Franko's name and the alias of John Franklin as well as the address of the residence. Inasmuch as Mr. Franko has failed to produce a lease or any other documentation that Mr. Franklin ever resided at the 5 North Michigan address, he has failed to meet his burden of proof in this matter.

Based upon the foregoing record, we conclude that that the Complaint should be denied.

V. Findings and Ordering Paragraphs

The Commission, after reviewing the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) Respondent, Northern Illinois Gas Company d/b/a Nicor Gas Company, is an Illinois corporation, engaged in furnishing utility services in the State of Illinois, and, as such, is a public utility within the meaning of the Illinois Public Utilities Act;
- (2) the Commission has jurisdiction over the complaint and the subject matter herein;
- (3) the findings of fact and conclusions of law reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and findings of law; and
- (4) the complaint filed by John W. Franko against Northern Illinois Gas Company d/b/a Nicor Gas Company on May 11, 2011 is denied.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the complaint filed by John W. Franko against Northern Illinois Gas Company d/b/a Nicor Gas Company on May 11, 2011 is denied.

IT IS FURTHER ORDERED that any petitions, objections, or motions made in this proceeding and not otherwise specifically disposed of herein are hereby disposed of in a manner consistent with the conclusions contained herein.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

DATED:
BRIEFS ON EXCEPTIONS DUE:
REPLY BRIEFS ON EXCEPTIONS DUE:

March 16, 2012
March 30, 2012
April 6, 2012.

D. Ethan Kimbrel,
Administrative Law Judge